

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

RICHARD LOUIS BROWN,
Plaintiff,
v.
SEIU LOCAL 1000, et al.,
Defendants.

Case No. 2:24-cv-3276-DJC-JDP (PS)
ORDER

This matter was referred to a United States Magistrate Judge pursuant to 28 U.S.C. § 636(b)(1)(B) and Local Rule 302. On April 1, 2025, the Magistrate Judge filed Findings and Recommendations herein which were served on the Parties and which contained notice that any objections to the Findings and Recommendations were to be filed within fourteen days. In the Findings and Recommendations, the Magistrate Judge recommended that Plaintiff's First Amended Complaint be dismissed with prejudice for failure to state a claim. Plaintiff filed Objections on April 7, 2025, and they were considered by the Court. Having carefully reviewed the entire file, the Court adopts the Findings and Recommendations in part.

The Court presumes that any findings of fact are correct. See *Orand v. United States*, 602 F.2d 207, 208 (9th Cir. 1979). The Magistrate Judge's conclusions of law are reviewed *de novo*. See *Robbins v. Carey*, 481 F.3d 1143, 1147 (9th Cir. 2007)

1 ("[D]eterminations of law by the magistrate judge are reviewed *de novo* by both the
2 district court and [the appellate] court").

3 As an initial matter, the Court agrees with the Magistrate Judge's findings that
4 Plaintiff's First Amended Complaint fails to state a claim for a violation of his
5 constitutional rights under 42 U.S.C. § 1983. However, the Court finds that
6 amendment would not "clearly" be futile such that leave to amend is proper.

7 To state a claim under section 1983, "a plaintiff must allege the violation of a
8 right secured by the Constitution and laws of the United States, and must show that
9 the alleged deprivation was committed by a person acting under color of state law."
10 *West v. Atkins*, 487 U.S. 42, 48 (1988) (citation omitted). To "act[] under color of state
11 law" the defendant must have exercised power "possessed by virtue of state law and
12 made possible only because the wrongdoer is clothed with the authority of the state."
13 *Id.* at 49 (citation omitted). While "merely private conduct, however discriminatory or
14 wrongful," is not within the scope of the Fourteenth Amendment, state action may
15 exist where "the challenged conduct that caused the alleged constitutional
16 deprivation is 'fairly attributable' to the state[.]" *Belgau v. Inslee*, 975 F.3d 940, 946
17 (9th Cir. 2020) (citation omitted). A two-pronged inquiry exists to determine whether
18 a State's involvement in private action is sufficient to hold the government responsible
19 for Plaintiff's harm. *Id.* at 946-47. First, a court considers "whether the claimed
20 constitutional deprivation resulted from the exercise of some right or privilege created
21 by the State or by a rule of conduct imposed by the state or by a person for whom the
22 State is responsible." *Id.* Second, a court considers "whether the party charged with
23 the deprivation could be described in all fairness as a state actor." *Id.* at 947.

24 Plaintiff alleges that Defendants, "as officers and representatives of SEIU Local
25 1000, a public sector union" acted under the color of state law because "their roles
26 inherently involve the execution of public union officer duties, including collective
27 bargaining and governance, which are regulated by state and federal law." Although
28 the Court agrees with the Magistrate Judge that these allegations do not support a

1 finding that the Defendants acted under color of state law, leave to amend is proper
2 given the various ways a plaintiff may allege that a private conduct involved state
3 action. See *Wright v. Servs. Empls. Int'l Union Local 503*, 48 F.4th 1112, 1121-1123
4 (9th Cir. 2022) (explaining how a plaintiff would maintain a section 1983 claim against
5 a private actor). However, Plaintiff is warned that further leave to amend will not be
6 granted absent a showing of good cause.

7 Accordingly, IT IS HEREBY ORDERED that:

8 1. The proposed Findings and Recommendations filed April 1, 2025, are
9 ADOPTED IN PART;

10 2. Plaintiff's First Amended Complaint (ECF No. 4) is DISMISSED with leave to
11 amend for failure to state a claim; and

12 3. This matter is referred back to the assigned Magistrate Judge for all further
13 pretrial proceedings.

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15 IT IS SO ORDERED.

16 Dated: September 15, 2025


Hon. Daniel J. Calabretta
UNITED STATES DISTRICT JUDGE

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